

**BEFORE THE COMMISSIONER OF INSURANCE
STATE OF KANSAS**

In the Matter of the Proposed)
Acquisition of Control of)
)
COVENTRY HEALTH CARE OF KANSAS, INC.)
(NAIC# 95489))
)
AETNA BETTER HEALTH OF KANSAS, INC.)
(NAIC# 16072))
)
By:)
)
CVS HEALTH CORPORATION)

Docket No. 74701

ORDER

Now on this 28th day of August, 2018, the above matter comes before the Commissioner of Insurance of the State of Kansas (the “Commissioner”) upon the filing of a pre-acquisition notice pursuant to K.S.A. 40-3304 and K.A.R. 40-1-28 in the form of a “Form A” Statement Regarding the Acquisition of Control of two domestic insurers dated January 11, 2018 (“Form A Statement”) by CVS Health Corporation (“Applicant”). The Form A Statement relates to the proposed acquisition of control of Coventry Health Care of Kansas, Inc. (“Coventry”) and Aetna Better Health Care of Kansas, Inc. (“Aetna”)(together “Domestic Insurers”), by the Applicant.

Pursuant to the authority granted to the Commissioner by K.S.A. 40-3301 and 40-3304(d)(1) and in accordance with the Kansas Administrative Procedures Act, K.S.A. 77-501, *et seq.*, the Commissioner hereby asserts the following declarations of public interest and policy, findings of fact, conclusions of law and orders the following:

DECLARATION OF PUBLIC INTEREST AND POLICY

The following statements of fact and conclusions of law are made with the intent to promote the policies and objectives enumerated in K.S.A. 40-3301.

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Pursuant to the authority granted to the Commissioner by K.S.A. 40-3301 and 40-3304(d)(1) and in accordance with the Kansas Administrative Procedures Act, K.S.A. 77-501, *et seq.*, the Commissioner hereby asserts the following declarations of public interest and policy, findings of fact, conclusions of law and orders the following:

DECLARATION OF PUBLIC INTEREST AND POLICY

The following statements of fact and conclusions of law are made with the intent to promote the policies and objectives enumerated in K.S.A. 40-3301.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The findings of fact and conclusions stated herein are based upon the statements made by the Applicant in the Form A Statement and accompanying documents made under oath and filed with the Kansas Insurance Department (“KID”) by the Applicant pursuant to K.S.A. 40-3304(b) and K.A.R. 40-1-28.

1. Coventry is a Kansas corporation with its statutory home office address in Wichita, Kansas and its main administrative office in Kansas City, Missouri. The Commissioner has jurisdiction over this company pursuant to K.S.A. 40-3203.

2. Aetna is a Kansas corporation with its statutory and administrative office in Overland Park Kansas. The Commissioner has jurisdiction over this company pursuant to K.S.A. 40-3203.

3. The purpose of the filing of the Form A Statement is to seek authority from KID for the proposed acquisition of control of Domestic Insurers by Applicant. The terms and conditions of the proposed acquisition are more fully set forth in the Form A Statement filed by the Applicant with the Commissioner pursuant to the Kansas Insurance Holding Company Act, K.S.A. 40-3301, *et seq.*

4. The Applicant submitted various Exhibits with the Form A Statement, including, without limitation, the Agreement and Plan of Merger (as defined below), organizational charts, financial statements, listing of directors and executive officers, biographical affidavits, Bridge Facility Commitment letters, Term Loan Agreement, Annual Report to stockholders, and an investor fact sheet. Those documents have been reviewed by representatives of the Financial

Surveillance and Legal Divisions of the KID, and the Commissioner has had the benefit of their technical expertise and advice.

5. Applicant has provided with its Form A filing a copy of the Agreement and Plan of Merger (hereinafter referred to as "Merger Agreement"), dated December 3, 2017, between Applicant, Aetna, and Hudson Merger Sub Corp. Pursuant to the terms of the Merger Agreement, in order to effectuation the acquisition of the Domestic Insurers, Hudson Merger Sub Corp., an indirect, wholly-owned subsidiary of Applicant created exclusively for this transaction, will merge with and into Aetna, with Aetna surviving the merger and becoming an indirect subsidiary of Applicant.

6. The Application represents that following the transaction, Domestic Insurers will remain 100% owned by Aetna, which will be 100% owned by CVS Pharmacy, Inc., which is 100% owned by Applicant, with no individual or entity owning 10% or more of Applicant's outstanding voting securities. Said Representatives are material to the issues of this Order.

7. Pursuant to the Merger Agreement, Aetna shareholders shall receive a cash payment and percentage of a share of Applicant's common stock in exchange for each share of Aetna common stock they own. Following the transaction, Aetna shareholders shall own approximately 22% and Applicant shareholders will own approximately 78% of the combined company.

7. The staff of the KID have inspected and reviewed the contents of the Form A Statement and Exhibits attached thereto, to the extent necessary, and found that the filing of the Form A Statement and Exhibits are in compliance with the provisions of the Kansas Insurance Holding Company Act, K.S.A. 40-3301, *et seq.* and K.A.R. 40-1-28. Also, staff have found the Form A Statement and Exhibits have provided the information required under Kansas statutes to enable the Commissioner to render a decision.

8. In its review of the Form A the Kansas Insurance Department has learned the U.S. Department of Justice' review of the merger continues to be ongoing, as well as several other state insurance regulatory authorities.

IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT:

1. The Application is approved contingent upon the following:
 - a. The approval of the proposed transaction by the United States Department of Justice or no action taken by the United States Department of Justice thereby causing the expiration or termination of the applicable waiting periods under the Hart-Scott-Rodino Act.
 - b. The proper approval or deemer of all state insurance regulatory authorities is received by the company, and to the Insurance Department upon request.
2. The Commissioner retains jurisdiction over the subject matter of this proceeding and over the parties for the purpose of entering such further order or orders as may be deemed proper.
3. Following the transaction, the applicant will be the ultimate controlling person of the domestic insurers.

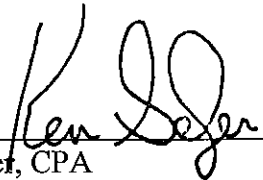
NOTICE OF RIGHTS

This Final Order is effective upon service. Pursuant to K.S.A. 77-529, Applicant may petition the Commissioner for reconsideration of this Final Order within fifteen (15) days after service of the Final Order. A petition for reconsideration must state the specific grounds upon which relief is requested. Additionally, a party to this agency proceeding may seek judicial review of this Final Order by filing a petition in the District Court, pursuant to K.S.A. 77-601, *et seq.* Reconsideration of this Final Order is not a prerequisite for judicial review. A petition for judicial review is not timely unless filed within thirty (30) days following the service of this Final Order, unless the Applicant petition the Commissioner for reconsideration, in which case a petition for judicial review is not timely unless filed within thirty (30) days following service of an order rendered upon reconsideration, or an order denying the request for reconsideration. In the event the Applicant file a petition for judicial review, the agency officer to be served on behalf of the Department is:

Diane Minear, General Counsel
Kansas Insurance Department
420 S.W. 9th Street
Topeka, Kansas 66612

**IT IS SO ORDERED THIS 28TH DAY OF AUGUST, 2018, IN THE CITY OF TOPEKA,
COUNTY OF SHAWNEE, STATE OF KANSAS.**





Ken Selzer, CPA
Commissioner of Insurance

/s/Grace Lancaster

Grace Lancaster
Staff Attorney

Certificate of Service

I hereby certify that a true and correct copy of the foregoing Order was forwarded via first class mail, postage prepaid on the 28 of August, 2018 to:

Tim Farber
Locke Lord LLP
111 South Wacker Dr.
Chicago, IL 60606
Tfarber@locklord.com

/S/Grace Lancaster

Grace Lancaster
Staff Attorney